

Message

From: Minter, Douglas [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0C1A47CA3AE847E2B7B818DA4734D7FD-MINTER, DOUGLAS]
Sent: 3/20/2019 2:33:55 PM
To: Chin, Lucita [Chin.Lucita@epa.gov]
CC: Robinson, Valois [Robinson.Valois@epa.gov]
Subject: RE: DB Update for RA Transition Book

Thanks so much Lucita. I will do my best to fit this into the format I've been given. Valois is out for part of the day, so I don't know the likelihood for her being able to review.

Douglas

From: Chin, Lucita
Sent: Wednesday, March 20, 2019 7:28 AM
To: Minter, Douglas <Minter.Douglas@epa.gov>
Cc: Robinson, Valois <Robinson.Valois@epa.gov>
Subject: RE: DB Update for RA Transition Book

Here are my additions. It is much longer, but much has happened in that 18 months. Valois, let me know if this is consistent with your current understanding of the NRC process. Thanks!

Lucita Chin
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From: Minter, Douglas
Sent: Tuesday, March 19, 2019 4:38 PM
To: Chin, Lucita <Chin.Lucita@epa.gov>
Cc: Robinson, Valois <Robinson.Valois@epa.gov>
Subject: DB Update for RA Transition Book

Hi Lucita: as part of a one page update, I need to revise/add to the following paragraph that is over 18 months old:

○ Nuclear Regulatory Commission (NRC) actions: Final License, Final Supplemental EIS (FSEIS) and NHPA Section 106 Programmatic Agreement finalized in April 2014. On April 30, 2015, the Atomic Safety and Licensing Board (ASLB) issued a decision on contentions raised by the Oglala Sioux Tribe (OST) and Powertech during the NRC process (including adequacy of the NHPA assessment). That decision was appealed, and the full Commission recently upheld the initial decision. The OST appealed the full Commission decision to federal court. The D.C. Circuit court determined that the NRC should not have allowed its license to remain in effect after it found significant deficiencies in its compliance with NEPA. It did not vacate the license, however, because of a concern about disruptive consequences. The Court specifically concluded that the NRC decision-making process is not complete and declined to consider the merits of any substantive issues. This means that the OST will have an opportunity to appeal once the NRC process is complete. The significant deficiency, as articulated by the Commission, is that the "cultural, historical, and religious sites of the Oglala Sioux Tribe have

not been adequately catalogued” and therefore the EIS “does not include mitigation measures sufficient to protect this Native American tribe’s cultural, historical, and religious sites that may be affected by the Powertech project.” On remand, the NRC Atomic Safety and Licensing Board (ASLB) left the license in place, consistent with the D.C. Circuit opinion, but required Powertech to provide the ASLB and other parties notice 60 days in advance of any activities. In order to meet its NEPA obligations, the NRC has been engaged in a process with the parties to develop and finalize the methodology to use in its site survey.

Could you make any revisions and reply by tomorrow?

Thanks!

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